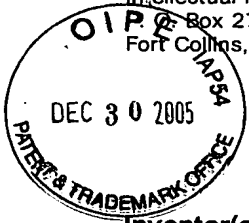


IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE



Inventor(s): Mark Harmon

Confirmation No.: 4918

Application No.: 09/940,193

Examiner: W.Y. Zhen

Filing Date: August 27, 2001

Group Art Unit: 2191

Title: USER INTERFACE TOOL ADAPTED TO FACILITATE COMPLETE CONFIGURING OF SOFTWARE OBJECTS

Mail Stop Appeal Brief-Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF

Sir:

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on 12/30/2005.

The fee for filing this Appeal Brief is (37 CFR 1.17(c)) \$500.00.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

() (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d) for the total number of months checked below:

() one month	\$120.00
() two months	\$450.00
() three months	\$1020.00
() four months	\$1590.00

() The extension fee has already been filled in this application.

(X) (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account **08-2025** the sum of 0.00. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Label No. EV482711252US in an envelope addressed to: MS Appeal Brief, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313.

Date of Deposit: December 30, 2005

Typed Name: Donna Forbit

Signature: Donna Forbit

Respectfully submitted,

Mark Harmon

By R. Ross Viguet

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Attorney/Agent for Applicant(s)

Reg. No. **42,203**

Date: **12/30/05**

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, Colorado 80527-2400

Docket No.: 10012513-1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Mark Harmon

Confirmation No.: 4918

Application No.: 09/940,193

Art Unit: 2191

Filed: August 27, 2001

Examiner: W.Y. Zhen

For: USER INTERFACE TOOL ADAPTED TO
FACILITATE COMPLETE CONFIGURING OF
SOFTWARE OBJECTS

SECOND APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This second appeal brief follows reopening of prosecution by the Examiner. As required under § 41.37(a), this brief is filed within two months of the Second Notice of Appeal filed herewith, and is in furtherance of said Second Notice of Appeal.

The fees required under § 41.20(b)(2) are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF. It should be noted that no additional fees are submitted herewith as Appellant believes that the fees paid for submission of the first appeal brief on June 24, 2005 carry over to this second appeal brief.

This brief contains items under the following headings as required by 37 C.F.R. § 41.37 and M.P.E.P. § 1206:

- | | |
|----|-----------------------------------|
| I. | Real Party In Interest |
| II | Related Appeals and Interferences |

III.	Status of Claims
IV.	Status of Amendments
V.	Summary of Claimed Subject Matter
VI.	Grounds of Rejection to be Reviewed on Appeal
VII.	Argument
VIII.	Claims
IX.	Evidence
X.	Related Proceedings
Appendix A	Claims

I. REAL PARTY IN INTEREST

The real party in interest for this appeal is:

Hewlett-Packard Development Company, L.P., a Texas Limited Partnership, having its principal place of business in Houston, Texas.

II. RELATED APPEALS, INTERFERENCES, AND JUDICIAL PROCEEDINGS

There are no other appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are 19 claims pending in the application.

B. Current Status of Claims

1. Claims canceled: 19
2. Claims withdrawn from consideration but not canceled: None
3. Claims pending: 1-18 and 20
4. Claims allowed: 12-18 and 20
5. Claims rejected: 1-8, 10, and 11
6. Claims objected to: 9

C. Claims On Appeal

The claims on appeal are claims 1-8, 10, and 11.

IV. STATUS OF AMENDMENTS

The last office action received from the Examiner is a non-final action, and no amendments have been filed since prosecution was reopened.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Because claims 1-8, 10, and 11 are the only claims currently appealed, only claims 1, 5, and 11 are described herein.

According to claim 1, a user interface tool (page 17, lines 1-11) comprises:
a software object creation process (figure 2, item 200), providing guidance to a user with respect to creation of a software object by said software object creation process (page 13, lines 11-20); and
an information communication link (page 13, lines 25-28) to a software object editor (figure 2, item 250), said link providing information with respect to said software object created by said software object creation process to facilitate operation of said software object editor with respect to said software object (page 13, line 23 through page 14, line 4).

Claim 5 recites the user interface tool of claim 4 wherein said selectable attributes are configurable by said software object editor (page 16, lines 12-15).

Claim 11 recites the user interface tool of claim 1 wherein said information communication link is established directly after selection of a software object attribute for which said software object editor provides configuration editing (page 18, lines 3-9).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-8, 10, and 11 are rejected under 35 U.S.C. § 102(b) as being anticipated by “Smart Internet Usage: Installation and Configuration Guide,” November 1999 (hereinafter, *SIU*). This is the sole ground of rejection to be reviewed.

VII. ARGUMENT

Claims 1-8, 10, and 11 are rejected under 35 U.S.C. § 102(b) as being anticipated by *SIU*. To anticipate a claim under 35 U.S.C. § 102, a reference must teach every element of the claim. *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Moreover, in order for an applied reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” *See Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989). As discussed further below, these requirements are not satisfied by the 35 U.S.C. § 102 rejection because *SIU* does not teach every element of the claims.

SIU, the sole reference in the rejections at issue, is a manual written to assist Information Technology (IT) personnel in setting up Smart Internet Usage software in a computer system. *See SIU* at 6. Specifically, the manual describes the prior art software mentioned in the Background of the Invention section and illustrated in figures 1A-G of the present application.

The prior art software described in *SIU* operates as follows. First, the user creates the various collectors in a creation process that is facilitated by a Creation Wizard. *See Id.* at 15-16. During creation, the user specifies the type of collector, the meters to be read, the aggregation scheme, and the data store. *See Id.* This is a high level creation process that does not offer the fine-grained configuration needed to craft effective collectors in the computer system. The attributes of the collectors, whether created in the wizard or configured later, are stored in the configuration server. *See Id.* at 16. It should be noted that

SIU states, “ From the wizard, you can then configure, run, and test your new collector.” *Id.* at 15. However, such statement does not indicate that the Creation Wizard performs an editing function. Rather, once a collector is created, a Finish screen appears that allows a user to launch an “SIU GUI” (otherwise referred to as the “Configuration and Admin GUI”) that makes configuration changes to already-created collectors. *Id.* at 28, 29. The Configuration and Admin GUI is not the same as the Creation Wizard. Further, *SIU* does not teach that the configuration server performs a software object editing function, and, in fact, does not teach that the configuration server does anything more than allow access to settings or programs. *See Id.* at 16 and 51-52.

A. Claims 1-4, 7-8, and 10

Claim 1 recites, in part, “an information communication link to a software object editor, said link providing information with respect to said software object created by said software object creation process.” *SIU* does not teach the above-quoted feature of claim 1. The Office Action mailed October 3, 2005 (hereinafter, the “Office Action”) at pages 2-3 relies upon the Creation Wizard and the configuration server, disclosed at pages 16-17 and 51-52 of *SIU*, as teaching the feature. As shown below, neither the Creation Wizard nor the configuration server is the same as a software object editor. Therefore, the claimed link is not shown.

Pages 16-17 of *SIU* teach part of a creation process, wherein the type of collector to be created is selected. However, the Collector Creation Wizard is a creator, not an editor. For instance, on page 16 of *SIU*, the Collector Wizard dialog box states, “The next few screens will assist you in creating a simple collector from a variety of sources.” *SIU* does not teach that the Creation Wizard performs editing functions, but rather, teaches that it performs high-level creating.

This point is further confirmed by the fact that collectors and their configurations are not saved to the configuration server until the creation process is finished. *See SIU* at 28. After such saving, the SIU system allows collectors to be edited by the Configuration and Admin GUI. *Id.* at 28, 29. In contrast, the language of claim 1 clearly recites both 1) a creation process and 2) a software object editor in the user interface tool. The Creation Wizard is not a software object editor, as asserted in the Response to Arguments section of

the Office Action. Thus, the first passage teaches a creation process, not a “software object editor.”

Further, the configuration server is not a software object editor. While the passage teaches contacting a configuration server, that contact is not the same as “an information communication link to a software object editor,” as claim 1 recites, because the configuration server is not a software object editor. It should be noted that while the configuration server has the word, “configuration” in its name, it is not an editor, but rather, is a utility that stores configurations and allows access to a wide variety of programs for setting up a Smart Internet Usage program. *See* the diagram on page 50 of *SIU*, which depicts the “config store,” but does not teach that the configuration server performs editing functions. Thus, the first cited passage of *SIU* does not teach the claimed link because neither the Collector Creation Wizard nor the configuration server is a software object editor.

The second cited passage (pages 51-52 of *SIU*) teaches contacting the configuration server and storing the configurations, which is not the same as “an information communication link to a software object editor,” as claim 1 recites. As explained above, contacting the configuration server is not the same as the above-quoted feature of claim 1 because the configuration server is not, itself, a software object editor. Further, the configuration server may store configurations, but *SIU* does not teach that it performs editing functions. Thus, the second cited passage does not teach the above-quoted feature of claim 1. Because the rejection fails to point to a software object editor, it fails to show the claimed link. Accordingly, *SIU* does not teach or suggest, “an information communication link to a software object editor, said link providing information with respect to said software object created by said software object creation process,” as claim 1 recites.

In Response to Arguments, the Examiner alleges that the Creation Wizard is a software object editor that must be able to contact the configuration server to store and read configurations. Office Action at 5-6. This reading is incorrect for at least two reasons. First, as explained above, the Creation Wizard is not a software object editor because it creates but does not edit collectors. Second, the reading seems to imply that component configurations in the configuration server are the software objects created by the creation process, which does not clarify the issue. Whether the rejection points to the collectors, themselves, or to

their configurations, it is still true that the Creation Wizard plays a creating role, not an editing role.

Dependent claims 2-4, 7-8, and 10 each depend either directly or indirectly from independent claim 1 and, thus, inherit all of the limitations of independent claim 1. Thus, *SIU* does not teach all claim limitations of claims 2-4, 7-8, and 10. It is respectfully submitted that dependent claims 2-4, 7-8, and 10 are allowable at least because of their dependence from claim 1 for the reasons discussed above. Accordingly, Appellant respectfully requests reversal of the rejection of claims 1-4, 7-8, and 10.

B. Claims 5 and 6

Claim 5 recites, in part, “wherein said selectable attributes are configurable by said software object editor.” *SIU* does not teach this feature of claim 5. The Examiner points to the passage at pages 35-36 as teaching the feature; however, that assertion is incorrect. *See* Office Action at 3. The language of claim 5 specifies that the attributes are configurable by said software object editor—the same software object editor as in claim 1. However, the rejection points to a different component to teach the software object editor in claim 5. The cited passage teaches that the user configures collectors through the Admin pane of the Configuration and Admin GUI. The Configuration and Admin GUI is one of two parts of the software product, the other part being the Collector Creation Wizard, which is cited in the rejection of claim 1 to show a software object editor. *See SIU* at 15. Thus, the Configuration and Admin GUI is not the same as the Collector Creation Wizard. Accordingly, the rejection of claim 5 must fail because claim 5 recites the same software object editor as in claim 1.

In Response to Arguments, the Examiner states that “the configuration and admin GUI are parts of the software object editor.” Office Action at 6. However, such a statement is incorrect. As explained above, the Examiner cites the Creation Wizard as being the software object editor. *See* rejection of claim 1, *Id.* at 2-3 and 5-6. Also, as explained above, the Configuration and Admin GUI is not the same as, nor is it a part of, the Creation Wizard. Accordingly, the Examiner’s statement in response is incorrect, and the rejection of claim 5 must fail.

Dependent claim 6 depends from claim 5 and, thus, inherits all of the limitations of claim 5. Thus, the cited combination does not teach or suggest all claim limitations of claim 6. It is respectfully submitted that claim 6 is allowable at least because of its dependence from claim 5 for the reasons discussed above. Accordingly, Appellant respectfully requests reversal of the rejection of claims 5 and 6.

C. Claim 11

Claim 11 recites, in part, “wherein said information communication link is established directly after selection of a software object attribute for which said software object editor provides configuration editing.” *SIU* does not teach this feature. The Examiner cites *SIU* at pages 50-52 as teaching the feature. Office Action at 5. The cited passages teach how to use the “config store” in the configuration server and how the software system instantiates collectors using the configuration server at startup. On page 51, *SIU* states:

If you are a system integrator that has created a new collector configuration in ASCII format, then you would use loadconfig to load this new config in the config store. Then it will be available for your new collector to read when you start it.

In other words, the cited passage teaches that a link is established to the configuration server after creation of a collector, rather than directly after selection of an attribute. Therefore, *SIU* does not teach “wherein said information communication link is established directly after selection of a software object attribute for which said software object editor provides configuration editing,” as recited by claim 11.

In Response to Arguments, the Examiner states, “note that the link is inherently established directly after selection of a software object attributes as claimed in order to be accessible to the system.” Such a statement is incorrect. Inherency requires that the missing feature be “necessarily present in the thing described in the reference.” *Continental Can Co. USA v. Monsanto Co.*, 948 F.2d 1264, 20 U.S.P.Q.2d 1746, 1749 (Fed. Cir. 1991). In this case, the feature is explicitly taught not to be present in the reference. For instance, *SIU* teaches that once a user hits the Finish button in the Creation Wizard, the collector is created and saved to config store in the configuration server. *SIU* at 28. Thus, *SIU* teaches that finishing creation is a step that occurs between selection of attributes and saving attributes to

the configuration server. In other words, the attributes are not saved until after the creation process is finished. Since the alleged link is not established until the attributes are saved, the assertion of inherency is incorrect, as no link can be established directly after selection of software object attributes. Therefore, Appellant respectfully requests reversal of the rejection of claim 11.

VIII. CLAIMS

A copy of the claims involved in the present appeal is attached hereto as Appendix A. As indicated above, only claims 1-8, 10, and 11 are rejected. Thus, Appendix A includes only claims 1-8, 10, and 11, as those are the only claims involved in the appeal.

IX. EVIDENCE

No evidence pursuant to §§ 1.130, 1.131, or 1.132 or entered by or relied upon by the examiner is being submitted.

X. RELATED PROCEEDINGS

No related proceedings are referenced in II. above, or copies of decisions in related proceedings are not provided, hence no Appendix is included.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV482711252US, in an envelope addressed to: MS Appeal Brief, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Date of Deposit: December 30, 2005

Typed Name: Donna Forbit

Signature: Donna Forbit

Respectfully submitted,

By R. Ross Viguet
R. Ross Viguet
Attorney/Agent for Appellant(s)
Reg. No.: 42,203

Date: December 30, 2005

Telephone No. (214) 855-8185

APPENDIX A

Claims Involved in the Appeal of Application Serial No. 09/940,193

1. A user interface tool comprising:
a software object creation process providing guidance to a user with respect to creation of a software object by said software object creation process; and
an information communication link to a software object editor, said link providing information with respect to said software object created by said software object creation process to facilitate operation of said software object editor with respect to said software object.
2. The user interface tool of claim 1 wherein said software object creation process comprises a software wizard.
3. The user interface tool of claim 1 wherein said software object comprises a data collector.
4. The user interface tool of claim 1 wherein said software object comprises a plurality of selectable attributes for which said software object creation process facilitates selection of by said user.
5. The user interface tool of claim 4 wherein said selectable attributes are configurable by said software object editor.
6. The user interface tool of claim 5 wherein said selectable attributes must be configured by said software object editor prior to proper operation of said software object.
7. The user interface tool of claim 1 further comprising:
a software object configuration option process providing said user with information with respect to configuration of said software object.
8. The user interface tool of claim 7 wherein said software object configuration option process provides selectable activation of said information communication link.
10. The user interface tool of claim 1 wherein said information communication link is established after completion of said software object creation process.

11. The user interface tool of claim 1 wherein said information communication link is established directly after selection of a software object attribute for which said software object editor provides configuration editing.



HEWLETT-PACKARD COMPANY
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Fort Collins, Colorado 80527-2400

Docket No.: 10012513-1
(PATENT)

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In re Patent Application of:
Mark Harmon

Confirmation No.: 4918

Application No.: 09/940,193

Art Unit: 2191

Filed: August 27, 2001

Examiner: W.Y. Zhen

For: USER INTERFACE TOOL ADAPTED TO
FACILITATE COMPLETE CONFIGURING OF
SOFTWARE OBJECTS

STATEMENT CONCERNING FEES

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Prosecution was reopened in this matter prior to a decision on the merits by the Board of Patent Appeals and Interferences. Therefore, the fees paid for the first Notice of Appeal (filed 4/27/05) and first Appeal Brief (filed 6/24/05) should be applied to this appeal. Accordingly, no fee is included with this Notice of Appeal and Appeal Brief which accompany this Statement.

Applicant believes no fee is due with this response. However, if a fee is due, please charge Deposit Account No. 08-2025, under Order No. 10012513-1 from which the undersigned is authorized to draw.

Application No.: 09/940,193

Docket No.: 10012513-1

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail, Label No. EV482711252US in an envelope addressed to: MS Appeal Brief, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313.

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Signature: Donna Forbit

Respectfully submitted,

By: R. Ross Viguet
R. Ross Viguet
Attorney/Agent for Applicant(s)
Reg. No. 42,203

Date: December 30, 2005

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